

HOUSE BILL 111

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

## INTRODUCED BY

Kristina Ortez and Mimi Stewart and Andrea Romero  
and Elizabeth "Liz" Stefanics and James G. Townsend

## AN ACT

RELATING TO WATER; INCREASING THE MAXIMUM PENALTY FOR A  
VIOLATION OF WATER LAW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** Section 72-2-18 NMSA 1978 (being Laws 2001, Chapter 143, Section 1, as amended) is amended to read:

"72-2-18. STATE ENGINEER--ENFORCEMENT--COMPLIANCE  
ORDERS--PENALTY.--

A. When a person, pursuant to a finding of fact, violates a requirement or prohibition of Chapter 72 NMSA 1978, a regulation, code, order or special order adopted by the state engineer pursuant to Section 72-2-8 NMSA 1978, a condition of a permit or license issued by the state engineer pursuant to law or an order entered by a court adjudicating a water right, the state engineer may, in addition to any other remedies available

.232729.2

underscored material = new  
[bracketed material] = delete

1 under law, issue a compliance order stating with reasonable  
2 specificity the nature of the violation and requiring  
3 compliance within a specified time period. A compliance order  
4 shall not be effective against ~~any~~ a party other than the  
5 person against whom the compliance order is issued.

6                   B. This section shall not be construed to affect or  
7 interfere with any jurisdiction of an irrigation district, a  
8 conservancy district, a state court, a federal court or an  
9 Indian nation, tribe or pueblo to enforce its orders and  
10 decrees pertaining to water rights.

11                  C. A compliance order may include an order to cease  
12 the violation of a requirement or prohibition of Chapter 72  
13 NMSA 1978, a directive issued in accordance with the provisions  
14 of Section 72-2-8 NMSA 1978, a condition of a permit or license  
15 issued by the state engineer or an order entered by a court  
16 adjudicating a water right.

17                  D. The state engineer shall provide an opportunity  
18 for the person named in the compliance order to have a hearing  
19 on the alleged violation pursuant to Section 72-2-16 NMSA 1978.  
20 A hearing shall be held if a written request is made to the  
21 state engineer within thirty days after receipt of the notice  
22 of the compliance order sent by certified mail. If service by  
23 certified mail is not possible, the state engineer may serve  
24 the compliance order by process server or other effective  
25 means. Notice shall be deemed effective when delivered to the

underscored material = new  
[bracketed material] = delete

1       address of record of the person named in the compliance order.

2       A compliance order issued pursuant to this section shall become  
3       final unless the person named in the order submits a written  
4       request for a hearing to the state engineer within thirty days  
5       of receipt of the order. A compliance order shall be  
6       enforceable only upon becoming final. Nothing in this section  
7       shall prohibit the person named in the order from pursuing an  
8       informal resolution of the matter after a timely request for  
9       hearing has been made.

10       E. A compliance order may require repayment of  
11       water that was overdiverted or illegally diverted. Repayment  
12       of water may be up to double the amount of the overdiversion or  
13       illegal diversion. In determining the repayment of water  
14       beyond the amount overdiverted or illegally diverted, the state  
15       engineer shall take into consideration the seriousness of the  
16       violation, any good faith efforts to comply with the applicable  
17       requirements and any other relevant factors. Any requirement  
18       to repay water shall not be enforceable until the compliance  
19       order becomes final. Installation of a measuring device may be  
20       required prior to any future diversion of water. The state  
21       engineer shall not pursue a civil penalty pursuant to  
22       Subsection G of this section for an overdiversion of a water  
23       right. This subsection shall not be construed to alter or  
24       affect any stream adjudication court orders in place prior to  
25       the effective date of this 2026 act.

.232729.2

underscored material = new  
[bracketed material] = delete

1                   F. Any appeal to district court shall be conducted  
2 pursuant to Chapter 72, Article 7 NMSA 1978 and shall not stay  
3 enforcement of the compliance order unless ordered by the  
4 district court.

5                   G. [After] Prior to issuing a compliance order,  
6 ~~[becomes final]~~ the state engineer shall issue a written notice  
7 of violation. After issuing a written notice of violation, the  
8 state engineer may assess a civil penalty of up to ~~[one hundred~~  
9 ~~dollars (\$100)]~~ three thousand four hundred dollars (\$3,400)  
10 per day for ~~[violation of the compliance order. Any civil~~  
11 ~~penalty assessed shall accrue from the date of assessment of~~  
12 ~~the penalty]~~ each day during any portion of which the violation  
13 continues. If the water is sold without a permit to do so, the  
14 maximum penalty shall be double the economic benefit to the  
15 violator resulting from the violation or twenty-five dollars  
16 (\$25.00) per barrel of water sold, whichever is greater. In  
17 determining the amount of the civil penalty, the state engineer  
18 shall take into consideration the seriousness of the violation,  
19 any good faith efforts to comply with the applicable  
20 requirements and any other relevant factors. A compliance  
21 order may require payment of the assessed civil penalty  
22 accruing from the date of the notice of violation. The civil  
23 penalty shall not be enforceable until the compliance order  
24 becomes final.

25                   H. If a person does not comply with a compliance

.232729.2

underscored material = new  
[bracketed material] = delete

1 order, the state engineer may file a civil action in the county  
2 in which the violation occurred to enforce the compliance order  
3 and receive any of the remedies provided in this section,  
4 including injunctive relief."

5 **SECTION 2.** Section 72-5A-12 NMSA 1978 (being Laws 1999,  
6 Chapter 285, Section 12) is amended to read:

7 "72-5A-12. PENALTIES.--

8 A. A person who or governmental entity that is  
9 determined to be in violation of the Ground Water Storage and  
10 Recovery Act or a permit issued or rules adopted pursuant to  
11 the act may be assessed a civil penalty in an amount not  
12 exceeding:

13 (1) ~~[one hundred dollars (\$100)]~~ three  
14 thousand four hundred dollars (\$3,400) per day of violation not  
15 directly related to the illegal recovery or use of stored  
16 water; or

17 (2) ten thousand dollars (\$10,000) per day  
18 of violation directly related to the illegal recovery or use of  
19 stored water.

20 B. An action to recover penalties pursuant to this  
21 section shall be brought by the state engineer in the district  
22 court in which the violation occurred."

23 **SECTION 3.** Section 72-12-14 NMSA 1978 (being Laws 1949,  
24 Chapter 178, Section 3) is amended to read:

25 "72-12-14. SUSPENSION OR REVOCATION OF LICENSE--APPEAL--

.232729.2

underscored material = new  
[bracketed material] = delete

1 DAMAGES.--~~[Any license issued under the provisions of this act~~  
2 ~~may be suspended or revoked by]~~ Upon notice and after  
3 opportunity for a hearing, the state engineer ~~[upon notice and~~  
4 ~~hearing, in the event that the license shall have violated any]~~  
5 may suspend or revoke a license issued pursuant to the  
6 provisions of Sections 72-12-12 through 72-12-17 NMSA 1978 for  
7 a violation of a condition of [the] a bond maintained [by him]  
8 as a prerequisite for [such] the license. Appeals from the  
9 decision of the state engineer may be taken to ~~[the district~~  
10 ~~courts of the state]~~ a district court in the same manner ~~[and~~  
11 ~~with like effect]~~ as ~~[now]~~ provided for other appeals from  
12 action of the state engineer. In the event of such breach, the  
13 state engineer, on behalf of the state ~~[of New Mexico]~~ and any  
14 other person injured ~~[thereby]~~ by the breach, is authorized to  
15 recover in a civil suit in the district court of the county  
16 where the well involved is located, judgment for ~~[such]~~ damages  
17 ~~[as may have been]~~ sustained by reason ~~[thereof]~~ of the breach.  
18 In addition, the state engineer is authorized to recover on  
19 behalf of the state ~~[of New Mexico]~~ a civil penalty in an  
20 amount to be determined by the district court ~~[in which the~~  
21 ~~action is tried]~~ not to exceed ~~[\$1,000.00]~~ ten thousand dollars  
22 (\$10,000), and judgment for both damages and penalty shall be  
23 against the principal and sureties ~~[upon said]~~ on the bonds."  
24  
25